

UNITED STATES BANKRUPTCY COURT  
SOUTHERN DISTRICT OF NEW YORK

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In re: :  
: SIPA LIQUIDATION  
BERNARD L. MADOFF INVESTMENT :  
SECURITIES LLC, : No. 08-01789 (SMB)  
: Debtor.  
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IRVING H. PICARD, Trustee for the Liquidation :  
of Bernard L. Madoff Investment Securities LLC, :  
: Plaintiff, : Adv. Proc. No. 09-01182 (SMB)  
v. :  
J. EZRA MERKIN, GABRIEL CAPITAL, L.P., :  
ARIEL FUND LTD., ASCOT PARTNERS, L.P., :  
ASCOT FUND LTD., GABRIEL CAPITAL :  
CORPORATION, :  
: Defendants.

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**NOTICE OF DEFENDANTS' MOTION TO REARGUE  
THE COURT'S JANUARY 22, 2018 ORDER EXCLUDING THE  
OPINIONS AND TESTIMONY OF JEFFREY M. WEINGARTEN**

**PLEASE TAKE NOTICE** that Pursuant to Local Bankruptcy Rule 9023-1 and Local Civil Rule 6.3, and upon the accompanying Declaration of Mariel R. Bronen, dated February 5, 2018, and all attached exhibits, and the accompanying Memorandum of Law, Defendants J. Ezra Merkin ("Merkin"), Gabriel Capital Corporation ("GCC"), Ralph C. Dawson, as Receiver for Defendant Ascot Partners, L.P. ("Ascot Partners"), and Ascot Fund Limited ("Ascot Fund" and, collectively with Merkin, GCC, and Ascot Partners, "Defendants") will move before the

Honorable Stuart M. Bernstein, United States Bankruptcy Judge for the Southern District of New York, at the United States Bankruptcy Courthouse, One Bowling Green, New York, New York, 10004-1408, at a date and time to be determined by the Court, for an Order granting their motion to reargue the Court's January 22, 2018 Order, implementing its December 22, 2017 Memorandum Decision, granting the motion *in limine* of Plaintiff Irving H. Picard (the "Trustee"), as Trustee for the Liquidation of Bernard L. Madoff Investment Securities LLC ("BLMIS"), to exclude the opinions and testimony of Jeffrey M. Weingarten and for an Order permitting Weingarten to offer his expert opinion testimony to rebut the limited testimony concerning "reactive due diligence" that the Court has permitted the Trustee's expert, Steve Pomerantz, to offer, and for such other relief as the Court deems just and proper.

NOTICE IS FURTHER GIVEN that the Trustee's response to this Motion, if any, shall be filed with the Bankruptcy Court and served on counsel for Defendants at a date and time to be set by the Court.

Dated: New York, New York  
February 5, 2018

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